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8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12
13 A.O., et al.,

14 Plaintiffs,

15 v.

16 KENNETH T. CUCCINELLI, et al.,

17 Defendants.

Case No. 19-CV-06151 SVK

**STIPULATION AND ~~[PROPOSED]~~
ORDER AUTHORIZING THE
PARTIES TO SUBMIT
SUPPLEMENTAL BRIEFS RE
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION
(As Modified)**

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19 The parties, through counsel, hereby stipulate and request the Court to (1) allow Defendants to
20 file a supplemental brief not to exceed seven pages and a supplemental declaration on February 14,
21 2020, addressing developments that occurred after they filed their Opposition to Plaintiffs' Motion for a
22 Preliminary Injunction; (2) allow Plaintiffs to file a response not to exceed seven pages on February 21,
23 2020; and (3) set a hearing on Plaintiffs' Motion for Preliminary Injunction.

24 In support of this request, Defendants submit: Defendants filed their Opposition to Plaintiffs'
25 Motion for a Preliminary Injunction on December 3, 2019. Since that time, several significant
26 developments have occurred that inform and impact issues of mootness, irreparable harm, and the
27 appropriate scope of injunctive relief. Such developments include:

- On December 16, 2019, Plaintiffs provided their names and A-numbers to Defendants.
- After receiving Plaintiffs' names and A-numbers, Defendants notified Plaintiffs that all five of the Plaintiffs in this case are on the *J.L.* class list.
- On December 18, 2019, Magistrate Judge Cousins issued an Order Granting Final Approval of the Settlement Agreement in *J.L., et al., v. Kenneth T. Cuccinelli, et al.*, Case No. 18-cv-04914-NC ("*J.L.*").
- The government has approved the petitions of the five named Plaintiffs in this action.

In addition, Defendants submit: On December 16, 2019, Magistrate Judge Cousins issued an Order to Show Cause Why Defendants Should Not Be Held in Civil Contempt in *J.L.*, based on defendants' failure to notify plaintiffs about removals of certain *J.L.* class members, in violation the court's preliminary injunction. *J.L.* Dkt. No. 224. In their Reply in Support of Motion for Preliminary Injunction, Dkt. No. 38, Plaintiffs referred to the *J.L.* Order to Show Cause, arguing "recent events in the *J.L.* litigation underscore why the court must issue an injunction." Dkt. No. 38 at 11:10. Because Plaintiffs raised this issue for the first time in their Reply, Defendants have not yet had the opportunity to address it.

The parties submit: Allowing the parties to submit supplemental briefs would be more fair and efficient than having Defendants attempt to argue these points during a hearing on Plaintiffs' Motion for a Preliminary Injunction. This will create a better record, and will help the Court correctly adjudicate Plaintiffs' Motion for a Preliminary Injunction. The parties, therefore, respectfully request the Court to issue the following proposed order.

Respectfully submitted,

Date: February 12, 2020

By: /s/ Thomas R. Kreller

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Date: February 12, 2020

/s/ James A. Scharf
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~~[PROPOSED]~~ ORDER

Pursuant to the stipulation of the parties, and based on good cause, it is hereby ordered that

(1) Defendants shall file a supplemental brief not to exceed seven pages and a supporting declaration on February 14, 2020, addressing developments that occurred after they filed their Opposition to Plaintiffs' Motion for a Preliminary Injunction.

(2) Plaintiffs shall file a response not to exceed seven pages on February 21, 2020.

(3) The Court will **set a hearing after the briefs are received.** ~~hear Plaintiffs' Motion for Preliminary Injunction on _____.~~

IT IS SO ORDERED.

Dated: February 13, 2020


Magistrate Judge Susan van Keulen